

IN THE CIRCUIT COURT OF PANOLA COUNTY, MISSISSIPPI  
SECOND JUDICIAL DISTRICT

GLORIA HOLMES

v.

GGNSC BATESVILLE LLC d/b/a  
GOLDEN LIVING CENTER, FRESENIUS  
MEDICAL CARE SARDIS  
and JOHN AND JANE DOES I-X

PLAINTIFF

CAUSE NO.

CV 2013-418MP2

DEFENDANTS

COMPLAINT  
(*Jury Trial Demanded*)

COMES NOW the Plaintiff, Gloria Holmes and files this civil action for damages against the Defendants, GGNSC Batesville LLC d/b/a Golden Living Center, Fresenius Medical Care Sardis and John and Jane Does I-X. Plaintiff states the following in support of his Complaint:

I. PARTIES

1. The Plaintiff Gloria Holmes is currently a resident of Lafayette County, Mississippi.
2. The Defendant GGNSC Batesville LLC d/b/a Golden Living Center is a nursing home facility located at 154 Woodland Road, Batesville, MS, 38606. It can be served by delivering a copy of the Complaint and Summons to its Registered Agent Corporation Service Company, 506 S. President Street, Jackson, Mississippi 39201.
3. The Defendant Fresenius Medical Care is a medical facility located at 200 E. Frontage Road, Sardis, MS, 38666. It can be served by delivering a copy of the Complaint and Summons to its Registered Agent CT Corporation System, 645 Lakeland East Drive, Suite 101, Flowood, Mississippi 39232.
4. Defendant John and Jane Does I-X are believed to be other staff, doctors, nurses, agents, representatives, and/or agents of Defendants who may be liable to the Plaintiff by virtue

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CIRCUIT CLERK

of their relationship to the claims alleged herein. The identity of the unknown Defendants cannot be determined at this time. The Plaintiff will amend his Complaint so as to identify and include one or more of the unknown Defendants at such time as their identities and responsibilities are established.

## **II. JURISDICTION AND VENUE**

5. This Court has jurisdiction over the parties in the subject matter herein. This Court is the proper venue in the matter as certain of the Defendants are located in Panola County, Mississippi.

6. Venue is proper in this Court as set forth in Miss. Code Ann. § 11-11-3(3).

7. The Plaintiff provided proper notice to the Defendants prior to filing the complaint as required by Mississippi Code Annotated Section 15-1-36(15). See Notice Letter attached hereto as Exhibit "A."

8. At all times relevant Defendants owned and/or operated medical facilities and/or provided medical care to the Plaintiff, Gloria Holmes.

9. The other John and Jane Doe Defendants are other individuals or entities who are unknown to Plaintiff and may be liable for the causes of action set forth herein.

## **III. FACTUAL BACKGROUND**

10. Golden Living Center and Fresenius Medical Care Sardis negligently placed Mrs. Holmes in a van and failed to properly secure Mrs. Holmes in her wheelchair. As a result of being unsecured in the vehicle, Mrs. Holmes fell out of her wheelchair during transportation from Fresenius to Golden Living. Mrs. Holmes sustained a fractured left hip from the fall. Mrs. Holmes was found on the floor of the van when it returned to Golden Living. Mrs. Holmes was

found in excruciating pain. Instead of rushing Mrs. Holmes straight to the emergency room, Golden Living forced Mrs. Holmes to sit in pain and wait at Golden Living for a mobile x-ray.

#### IV. CLAIMS

11. The averments of the foregoing paragraphs are incorporated herein as if set forth at length below.

12. At all pertinent times hereto, Golden Living Center, Fresenius Medical Care Sardis and John and Jane Does I-X and respective agents and/or employees of the same owed a non-delegable duty to Gloria Holmes to provide professional healthcare services consistent with the nationally recognized minimally acceptable levels of competency which they would be expected to possess and apply given their qualifications and levels of expertise which they held themselves out as possessing, considering the circumstances of the patient's case. Defendants breached said duty, actually and proximately causing damages to Mrs. Holmes.

#### CLAIMS FOR RELIEF

##### COUNT I – MEDICAL NEGLIGENCE, NEGLIGENCE PER SE, AND GROSS NEGLIGENCE

13. The averments of paragraphs above are incorporated herein as if set forth at length below.

14. At all times relevant hereto, Defendants acted, or failed to act, through their agents, servants and/or employees, and are legally liable for all harm caused by their negligence to Gloria Holmes as set forth herein.

15. At all times relevant hereto, Defendants, Golden Living Center, Fresenius Medical Care Sardis and John and Jane Does I-X, controlled and supervised the activities of all individuals charged with the care of Gloria Holmes as averred herein, and had a duty to meet the standard of care.

16. At all times relevant hereto, Defendants' actions and inactions and those of its employees, agents or servants, as well as those residents for whom the Defendants were responsible, constituted breaches and violations of the standard of care for providing medical care under Mississippi law.

**DAMAGES**

17. As a direct and proximate result of the negligence of the Defendants, jointly and severally, and other John and Jane Doe Defendants, as set forth above, Gloria Holmes incurred damages, including, but not limited to, the following:

- a. Pain and suffering of Gloria Holmes;
- b. Bodily injury of Gloria Holmes;
- c. Medical and hospital expenses;
- d. Mental and emotional distress of Gloria Holmes;
- e. All other damages allowed by the laws of the State of Mississippi.

**DEMAND FOR RELIEF**

**WHEREFORE, PREMISES CONSIDERED**, Plaintiff prays that upon a trial by jury of this matter, a judgment will be returned in excess of the minimum jurisdictional limits of this Court, plus pre-judgment and post-judgment interest, all reasonable costs.

Respectfully submitted, this 12<sup>th</sup> day of March, 2013.

GLORIA HOLMES PLAINTIFF

By:

R. TODD WILLIS, JR., ESQUIRE  
ATTORNEY FOR PLAINTIFF

**OF COUNSEL:**

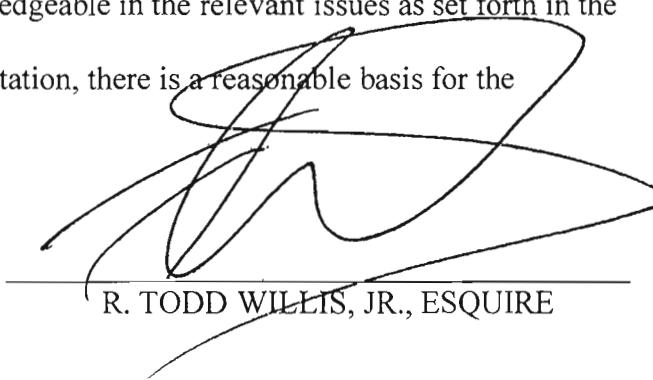
John F. Hawkins, Esquire (MS Bar #9556)  
R. Todd Willis, Esquire (MS Bar # 104179)  
HAWKINS | GIBSON, PLLC  
628 North State Street (39202)  
Post Office Box 24627  
Jackson, Mississippi 39225-4627  
Telephone: (601) 969-9692  
Facsimile: (601) 914-3580

**ATTORNEY CERTIFICATE**

1. I am a competent adult resident citizen and an attorney licensed to practice in all Courts in the State of Mississippi and is a member in good standing of the Mississippi Bar.

2. I have reviewed the facts of the case as set forth in the preceding Complaint and have consulted with at least one expert qualified pursuant to the Mississippi Rules of Civil Procedure and the Mississippi Rules of Evidence to give expert testimony as to the standard of care or negligence.

3. I believe said expert is knowledgeable in the relevant issues as set forth in the Complaint. Based on our review and consultation, there is a reasonable basis for the commencement of the instant action.



R. TODD WILLIS, JR., ESQUIRE

# HAWKINS | GIBSON, PLLC

## *The Millsaps Buie House*

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 Jackson, Mississippi 39225-4627  
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## *Gulf Coast Office*

153 Main Street  
 Bay St. Louis, Mississippi 39520  
 Telephone: (228) 469-0785  
 Facsimile: (228) 467-4212

John F. Hawkins  
 Edward Gibson\*

### **From the Desk of:**

**John F. Hawkins**  
 Jackson, Mississippi  
 Phone: (601) 969-9692  
 Email: [john@lgattorneys.com](mailto:john@lgattorneys.com)

August 14, 2012

**VIA CERTIFIED MAIL/RETURN  
 RECEIPT REQUESTED,  
 FACSIMILE AND U.S. MAIL**

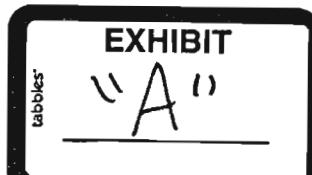
Fresenius Medical Care Sardis  
 200 E. Frontage Rd.  
 Sardis, MS 38666

Re: ***Gloria Holmes - Miss. Code Ann. § 15-1-36 Notice Letter***

To whom it may concern:

This letter will provide notice of claims against Fresenius Medical Care and any and all known and unknown staff, doctors, and nurses or other agents or representatives of Fresenius Medical Care involved in any way in the fall of Gloria Holmes that occurred during transportation from Fresenius Medical Care in Sardis, MS, to Golden Living Center on May 24, 2011, that fractured her left hip. This notice is being provided pursuant to Miss. Code Ann. § 15-1-36(15); the claimants herein base the claims on negligence and gross negligence which directly caused injury to Gloria Holmes.

Specifically, Fresenius Medical Care negligently placed Mrs. Holmes in a van and failed to properly secure Mrs. Holmes in her wheelchair. As a result of being unsecured in the vehicle, Mrs. Holmes fell out of her wheelchair during transportation from Fresenius to Golden Living. Mrs. Holmes sustained a fractured left hip from the fall. Mrs. Holmes was found on the floor of the van when it returned to Golden Living. Mrs. Holmes was found in excruciating pain.



*\*Also licensed to practice in Louisiana*

Re: Gloria Holmes  
Page 2

At all pertinent times hereto, Fresenius Medical Care and its respective agents and/or employees of the same owed a duty to Gloria Holmes to provide professional healthcare services consistent with the nationally recognized minimally acceptable levels of competency which they would be expected to possess and apply given their qualifications and levels of expertise which they held themselves out as possessing, considering the circumstances of Ms. Holmes' case. Fresenius Medical Care breached said duty, actually and proximately causing damages including personal injury to Ms. Holmes.

Gloria Holmes intends to bring suit against Fresenius Medical Care for her injuries. The claimant intends to demand any and all damages available to them under applicable law, including but not limited to damages for physical and emotional pain and suffering.

If this claim cannot be resolved within the period required before litigation can be commenced, the claimants will have no alternative but to file suit and proceed with an action against the above-named potential defendants. We look forward to hearing from your representation.

Sincerely,

HAWKINS | GIBSON, PLLC



John F. Hawkins, Esquire

JFH:rtw

CERTIFIED MAIL

HAWKINS GIBSON  
628 NORTH STATE STREET, BOX 24627  
JACKSON, MS 39225

PSForm 3800/6/2

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature: ( Addressee or  Agent)  
X Amy McMaster

B. Received By: (Please Print Clearly)  
Amy McMaster

C. Date of Delivery  
8/15/12

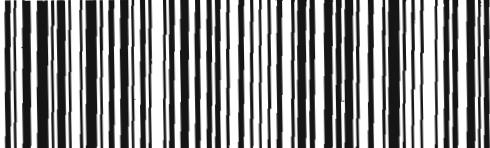
D. Addressee's Address (If Different From Address Used by Sender)  
  
Secondary Address / Suite / Apt. / Floor (Please Print Clearly)

Delivery Address

City	State	ZIP + 4 Code
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**RETURN RECEIPT REQUESTED**

Article Addressed To:

  
**9414 7112 0108 0345 2338 86**



U.S. Postal Service  
**Certified Mail Receipt**

ARTICLE NUMBER 9414 7112 0108 0345 2338 86	FEES								
ARTICLE ADDRESS TO: Fresenius Medical Care Sardis 200 E. Frontage Road Sardis MS 38666-1339									
<table> <tr> <td>Postage per piece</td> <td>\$2.10</td> </tr> <tr> <td>Certified Fee</td> <td>2.95</td> </tr> <tr> <td>Return Receipt Fee</td> <td>2.35</td> </tr> <tr> <td><b>Total Postage &amp; Fees:</b></td> <td><b>\$7.40</b></td> </tr> </table>		Postage per piece	\$2.10	Certified Fee	2.95	Return Receipt Fee	2.35	<b>Total Postage &amp; Fees:</b>	<b>\$7.40</b>
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John F. Hawkins  
Edward Gibson\*

## *Gulf Coast Office*

153 Main Street  
Bay St. Louis, Mississippi 39520  
Telephone: (228) 469-0785  
Facsimile: (228) 467-4212

### **From the Desk of:**

**John F. Hawkins**  
Jackson, Mississippi  
Phone: (601) 969-9692  
Email: [john@hgattorneys.com](mailto:john@hgattorneys.com)

August 14, 2012

**VIA CERTIFIED MAIL/RETURN  
RECEIPT REQUESTED,  
FACSIMILE AND U.S. MAIL**

GGNSC Batesville LLC d/b/a  
Golden Living Center  
1000 Fianna Way  
Fort Smith, AR 72919

GGNSC Clinical Services LLC  
1000 Fianna Way  
Fort Smith, AR 72919

GGNSC Administrative Services LLC  
1000 Fianna Way  
Fort Smith, AR 72919

Re: *Gloria Holmes - Miss. Code Ann. § 15-1-36 Notice Letter*

To Whom It May Concern:

This letter will provide notice of claims against GGNSC Batesville LLC d/b/a Golden Living Center, GGNSC Clinical Services LLC, GGNSC Administrative Services LLC, and any and all known and unknown staff, doctors, and nurses or other agents or representatives of Golden Living Center involved in any way in the fall of Gloria Holmes that occurred during transportation from Fresenius Medical Care to Golden Living Center on May 24, 2011, that fractured her left hip. This notice is being provided pursuant to Miss. Code Ann. § 15-1-36(15); the claimants herein base the claims on negligence and gross negligence which directly caused injury to Gloria Holmes.

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Re: Gloria Holmes  
Page 2

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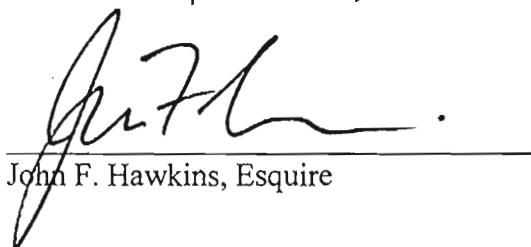
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Sincerely,

HAWKINS | GIBSON, PLLC



John F. Hawkins, Esquire

JFH:rtw

<b>U.S. Postal Service</b>	<b>ARTICLE NUMBER</b>	<b>FEES</b>
<b>Certified Mail Receipt</b>	9414 7112 0108 0345 2152 33	Postage per piece \$2.10
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		Return Receipt Fee 2.35
		<b>Total Postage &amp; Fees: \$7.40</b>
	<b>ARTICLE ADDRESS TO:</b>	
	GGNSC Batesville LLC d/b/a	
	Golden Living Center	
	1000 Fianna Way	
	Fort Smith AR 72919-9008	
		Postmark Here



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August 14, 2012

**VIA CERTIFIED MAIL/RETURN  
 RECEIPT REQUESTED,  
 FACSIMILE AND U.S. MAIL**

James Williams, Administrator  
 Golden Living Center  
 154 Woodland Rd.  
 Batesville, MS 38606

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To Mr. Williams:

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Re: Gloria Holmes  
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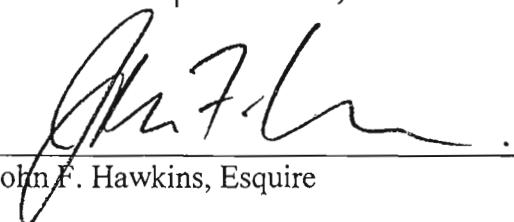
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Sincerely,

HAWKINS | GIBSON, PLLC



John F. Hawkins, Esquire

JFH:rtw

\*\*\*\*\* -COMM. JL..JAL- \*\*\*\*\* DATE AUG-14-2012 \*\* TIME 16:43 \*\*\*\*\*

MODE = MEMORY TRANSMISSION

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END=AUG-14 16:43

FILE NO.=135

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-HAWKINS GIBSON -

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## HAWKINS | GIBSON, PLLC

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John F. Hawkins  
 Edward Gibson\*

From the Desk of:  
 John F. Hawkins  
 Jackson, Mississippi  
 Phone: (601) 969-9692  
 Email: [john@hgattorneys.com](mailto:john@hgattorneys.com)

## FAX COVER SHEET

DATE: 8-14-12TO: Jones WilliamsFAX NO.: (602-563-5815

FROM: Todd Willis, Law Clerk for John F. Hawkins, Esq.

PHONE: (601) 969-9692

PAGE(S) 3 (includes cover sheet)

MESSAGE:

If you have a problem receiving these documents, please contact Tabitha at (601) 969-9692.

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ARTICLE NUMBER 9414 7112 0108 0345 2111 36	FEES
ARTICLE ADDRESS TO: James Williams, Administrator Golden Living Center 154 Woodland Rd. Batesville MS 38606-7300	Postage per piece \$2.10 Certified Fee 2.95 Return Receipt Fee 2.35 Total Postage & Fees: \$7.40
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